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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,447

12/04/2003

Mark James Beckman

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EXAMINER

KUMAR, RAKESH

ART UNIT

PAPER NUMBER

3651

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,447	<b>Applicant(s)</b> BECKMAN, MARK JAMES	
	<b>Examiner</b> RAKESH KUMAR	<b>Art Unit</b> 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 21-28 and 32 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 and 29-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Furthermore, the title of the invention is considered to be too long.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,2,7,10,25 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claims 1,2,7,10,25 and 32. Limitations as recited in claim 1 do not specifically disclose a preamble of the claim. It is unclear as to what elements of the claimed invention the applicant deems as being improvements over the known and what structure of the claim the applicant is claiming.

A preamble comprising a general description of all the elements or steps of the claimed combination which are conventional or known should precede a phrase such as "wherein the improvement comprises." In this instant - -A process for assembly of a

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combination of a beverage container having a cap comprising... .--. Appropriate action is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman (US 6,247,612) in view of Franco (US 5,743,423).

Referring to claims 1,3,4,25 and 32. Kaufman discloses a process for the assembly and the dispensing of a refrigerated beverage container wherein, transporting filled and capped beverage containers (Figure 5) and preconfigured products to a site of said vending machine for the purpose of performing maintenance function (loading the containers) of said vending machine (Col. 4 line 65-Col. 5 line 10); and, performing maintenance function including the replenishment (loading the containers) of said vending machine internal storage rack compartments (30) with said

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combination of beverage and article (shirts; Figure 6) configured assembled as a unit (Col. 4 line 65-Col. 5 line 10);

replenishment comprising the steps of;

selection of said filled beverage container and said preconfigured article (shirt; Figure 10) as a unit with a retaining device (256; Figure 10) and inserting said unit into an empty product storage rack compartment (see Figure 1); and,

setting a price point (36; Figure 1) for the said product storage rack compartment (30), the contents to be dispensed from said product storage rack compartment (30) to said consumer assessable area (28) for pickup by the consumer upon the condition of the consumer inserting sufficient currency (24) into said vending machine (10) as established by said set price point (36) and entering a selection of the contents (26) of said product storage rack compartment (30) thereby releasing and dispensing into said consumer accessible area (28) said selected stored unit of a combined beverage container and article container thereafter said beverage and article being easily removed from said consumer accessible area (28) as a unit (Figure 10) and thereafter separated by removal of said retainer device (256) by said consumer (Figure 8) for consumption of said beverage and article.

Kaufman does not disclose the container unit as comprising a beverage and a snack product.

Franco discloses a snap on package (Figure 1) wherein the package is attached to a beverage bottle. The package adapted to hold edible articles this the beverage bottle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teachings of Kaufman to replace the free T-shirt provided along this the beverage container with a snack product because it would provide a greater selection for the consumers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teachings of Kaufman to have include a beverage container comprising an attached package holding edible articles as taught by Franco because the selection of a beverage with an edible item would increase dispenser sale of the vending machine.

Regarding to claims 2,5 and 6. See claim rejection 1. Kaufman discloses the number and arrangement of the promotional item loaded in the storage compartment are determined by a person loading the item in to the storage compartment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teachings of Kaufman such that the assembly of the beverage and the promotional items is performed at the site of the vending machine in stead of being preconfigured because the operator would be better able to determine which type of promotional snacks are being consumed at certain vending machine sites.

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Claims 7, 10 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Franco (US 5,743,423) as applied to claim 1 above, and further in view of Beckman (US 2005/0118309A.)

Regarding to claims 7,10, 25 and 26. Kaufman in view of Franco disclose all claimed limitations of claim 7 however Kaufman in view of Franco do not disclose a limiting disk as a retaining device beverage cap.

Beckman discloses a snack package adapted for a bottle (Figure 7) wherein a retaining device is fabricated of a limiting disk (inside wall of 32 resting above cap 16) and a beverage cap attachment (58) mounted to one side of said limiting disk, limiting disk positioned to prevent said preconfigured snack from disengagement over said cap (18) until said retaining device is detached from said beverage cap (18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teachings of Kaufman in view of Franco to include a limiting disk engaged over the beverage cap as taught by Beckman because the limiting disk would effectively retain the snack article attached to the beverage container.

Regarding claims 21,22,23 and 24. The vending machine of Kaufman is refrigerated.

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Claims 8,9,11,12 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Franco and Beckman as applied to claim 7 above, and further in view of Singer (US 6,085,919).

Regarding to claims 8,9,11,12 and 27-29. Kaufman in view of Franco and Beckman disclose all claimed limitations of claim 8 however, Kaufman in view of Franco and Beckman do not disclose the beverage cap attachment comprising a plurality of retaining rings. Singer further discloses flexible fingers (412) used to retain the limiting disk on the bottle.

Singer a beverage cap attachment (411; Figure 7) comprising a plurality of retaining rings (416).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kaufman in view of Franco and Beckman to include plurality of rings disposed of the cap attachment at taught by Singer because the articles could selectively be assembled and disassembled from the beverage container by the consumer.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1,2,7,10,25 and 32 have been considered but are moot in view of the new ground(s) of rejection. New grounds of rejection are in light of Kaufman in view of Franco, see rejection above.



***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
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/RAKESH KUMAR/  
Examiner, Art Unit 3651